

LSK&D #: 901-7005 / 963100

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
STEPHANIE BEYL,

Plaintiff,

-against-

PAUL A. DRUMMOND, WERNER
ENTERPRISES, INC., JESSICA K. BOISVERT
and JAMES P. BOISVERT,

Defendants.
-----X

Docket No.: 07 CV 5587

CIVIL ACTION

**INITIAL DISCLOSURE
PURSUANT TO FRCP
26(a)(1)**

Defendant(s), PAUL A. DRUMMOND and WERNER ENTERPRISES, INC., by
and through his attorneys, LESTER SCHWAB KATZ & DWYER, LLP, in accordance
with the Initial Disclosure Rules of the Court, state the following:

- a) Answering defendants are aware of the following witnesses to the incident
in addition to the parties herein:

Kristen Iko, 100 Hillside Drive, Apt B12, Middletown, New York 10941, and

Paul Drummond, 16 Thompson St., Poughkeepsie, New York 12601.

Answering defendant reserves the right to supplement this response
throughout the discovery process, up to and including the time of trial.

- b) Annexed collectively hereto as Exhibit "A" is copy of the police accident
report and trade and bus supplemental police accident report.

Annexed collectively hereto as Exhibit "B" is a copy of the accident report
completed during the course of business.

Answering defendant reserves the right to supplement this response
throughout the discovery process, up to and including the time of trial.


- c) Not applicable to answering defendants.
- d) Answering defendants were self-insured for up to and including one million (\$1,000,000.00) dollars at the time of the alleged incident.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR §3101(h), the defendant PAUL A. DRUMMOND and WERNER ENTERPRISES, INC. reserves the right to supplement and/or amend its response to this demand should further information become available up to and including the time of trial herein.

Dated: New York, New York
February 11, 2008

Respectfully submitted,

LESTER SCHWAB KATZ & DWYER, LLP



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Jessica K. Boisvert and
James P. Boisvert

EXHIBIT “A”

Local Codes

MAH-2072

SPAST FISHKILL

POLICE ACCIDENT REPORT

MV-104A (7/01)

DMV COPY

AMENDED REPORT

bex/L

1	Accident Date Month <u>09</u> Day <u>29</u> Year <u>2004</u>		Day of Week <u>WE</u>	Military Time <u>1140</u>	No. of Vehicles <u>2</u>	No. Injured <u>2</u>	No. Killed <u>0</u>	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2	VEHICLE 1 State of Lic. <u>MA</u> Vehicle ID Number <u>S64195305</u> Driver Name - exactly as printed on license <u>BOISVERT JESSICA K</u> Address (Include Number & Street) <u>20 WINDSLOW DR</u> City or Town <u>MASHPEE</u> State <u>MA</u> Zip Code <u>02649</u> Date of Birth <u>11/21/77</u> Sex <u>F</u> Unlicensed <input type="checkbox"/> No. of Occupants <u>2</u> Public Property Damaged <input type="checkbox"/> Name - exactly as printed on registration <u>BOISVERT JAMES P</u> Sex <u>M</u> Date of Birth <u>01/04/72</u> M <input type="checkbox"/> Unlicensed <input type="checkbox"/> No. of Occupants <u>1</u> Public Property Damaged <input type="checkbox"/> Address (Include Number & Street) <u>BX4339</u> Apt. No. <u>1</u> Haz. Mat. Code <input type="checkbox"/> Released <input type="checkbox"/> City or Town <u>VINEYARD HAVEN</u> State <u>MA</u> Zip Code <u>02568</u> Plate Number <u>899ZDI</u> State of Reg. <u>MA</u> Vehicle Year & Make <u>94 FORD</u> Vehicle Type <u>40S</u> Ins. Code <u>-</u> Ticket/Arrest Number(s) <u>-</u> Violation Section(s) <u>-</u>				VEHICLE 2 <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN <input type="checkbox"/> State of Lic. <u>NY</u> Vehicle ID Number <u>946 296 984</u> Driver Name - exactly as printed on license <u>DRUMMOND PAUL A</u> Address (Include Number & Street) <u>16 THOMPSON ST</u> Apt. No. <u>2</u> City or Town <u>POUGHKEEPSIE</u> State <u>NY</u> Zip Code <u>12601</u> Date of Birth <u>01/04/72</u> M <input type="checkbox"/> Unlicensed <input type="checkbox"/> No. of Occupants <u>1</u> Public Property Damaged <input type="checkbox"/> Name - exactly as printed on registration <u>WERNER ENTERPRISES INC</u> Sex <u>M</u> Date of Birth <u>01/04/72</u> M <input type="checkbox"/> Unlicensed <input type="checkbox"/> No. of Occupants <u>1</u> Public Property Damaged <input type="checkbox"/> Address (Include Number & Street) <u>14507 FRONTIER RD</u> Apt. No. <u>1</u> Haz. Mat. Code <input type="checkbox"/> Released <input type="checkbox"/> City or Town <u>OMAHA</u> State <u>NE</u> Zip Code <u>68138</u> Plate Number <u>53725</u> State of Reg. <u>NE</u> Vehicle Year & Make <u>02 FORD</u> Vehicle Type <u>I</u> Ins. Code <u>-</u> Ticket/Arrest Number(s) <u>LQ947793-0</u> Violation Section(s) <u>1128 A (VTL)</u>						
3	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.				Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.				Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.		
4	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact <u>4</u> Box 2 - Most Damage <u>4</u> Enter up to three more Damage Codes <u>5</u>				VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact <u>1</u> Box 2 - Most Damage <u>1</u> Enter up to three more Damage Codes <u>3</u>				ACCIDENT DIAGRAM 9. Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to Determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
5	Vehicle Towed: By <u>HYATT'S</u> To <u>HYATT'S</u>				Vehicle Towed: By <u>-</u> To <u>-</u>				VEHICLE DAMAGE CODING: 1-13. SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER		
6	Reference Marker <u>0841</u> <u>TWYW</u> <u>0500</u>				Coordinates (if available) Latitude/Northing: Longitude/Easting:				Place Where Accident Occurred: County <u>Dutch</u> <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Town of <u>EAST FISHKILL</u> Road on which accident occurred <u>I 84</u> (Route Number or Street Name) at 1) intersecting street _____ (Route Number or Street Name) or 2) _____ of _____ (Milepost, Nearest intersecting Route Number or Street Name)		
7	Accident Description/Officer's Notes <u>VEH 1 WB 84 PL. VEH 2 WB 84 DL. VEH 2 STARTED TO CHANGE LANE TO ALLOW MERGING VEH TO ENTER HIGHWAY. OP VEH 1 OBSERVED VEH 2 START TO ENTER HER LANE & APPLIED BRAKES & LOSING CONTROL & STRUCK TRAILER OF VEH 2. VEH 2 DRAGGED VEH 1 APPROX 200 FT.</u> <u>TRAILER REC - (NE) 119990 WITNESS: ROBERTA TIKO - 845-692-6547</u>										
8	Officer's Rank and Signature <u>TPL Fred G. Healy</u> Badge/ID No. <u>1349</u> NCIC No. <u>17308</u> Precinct/Post/Troop/Zone <u>T15/21</u> Station/Beat/Sector <u>EFIS</u> Reviewing Officer <u>OS</u> Date/Time Reviewed <u>10/01/04 5230A</u>										

19
20
21
22
23
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26
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29
30
USE COVER SHEET

Page 1 of 1 Pages

New York State Department of Motor Vehicles

DMV USE ONLY

Local Codes

MH04-2072

TRUCK and BUS SUPPLEMENTAL
POLICE ACCIDENT REPORT

MV-104S (2/98)

SPEAST FISHKILL

Amended Report

INSTRUCTIONS: You must complete this form ONLY

- ◆ If at least one of the vehicles involved is
 - a truck with 6 or more tires; or
 - a vehicle with a Haz Mat placard; or
 - a bus designed to carry 16 or more persons
- ◆ AND at least one of the following conditions is met
 - a vehicle was towed from the scene due to damage (including providing intervening assistance)
 - at least one person sustained fatal injuries
 - at least one person was transported for IMMEDIATE medical treatment

Number of Qualifying Vehicles Involved:

- 1 Truck with 6 or more tires
- 0 A vehicle with a Haz Mat placard
- 0 Bus designed to carry 16 or more persons

Number of Vehicles/Persons:

- 1 Towed from scene due to damage
- 0 Sustaining fatal injuries
- 2 Transported for IMMEDIATE medical treatment
- 0 Provided intervening assistance.

DMV USE ONLY

DATE OF ACCIDENT

MO. DAY YEAR
09 29 04

TIME OF ACCIDENT

(Military)
1140

COUNTY

Dutchess

CITY/TOWN/VILLAGE

TEAST FISHKILL

DRIVER

License Number

946296984

Name: CARRIER'S NAME:

DRUMMOND, PAUL A

Date of Birth:

MO. DAY YR. SEX
01 04 72 M

MV-104A/AN VEH NUMBER

2⁵

CARRIER'S NAME:

WERNER ENTERPRISES INC

SOURCE

- 1 Vehicle side 4 Other
- 2 Shipping papers 5 Unknown
- 3 Driver 6 Log Book

1⁶

STREET OR P.O. BOX

14507 FRONTIER RD

CITY

AMANA

STATE

NE

ZIP CODE

08138

TOTAL AXLES

(Includes trailers)

5⁷

CARRIER'S IDENTIFICATION NUMBERS

US DOT

153467

ICC MC

111111

PLATE NUMBER

53725

STATE OF REG.

NE

GROSS VEHICLE WEIGHT RATING

Truck/

Tractor

Total All

Trailer(s)

lbs.

lbs.

VEHICLE IDENTIFICATION NUMBER

1FWJBBC672L888421

1⁶

VEHICLE CONFIGURATION

- 0 4 tires With Haz Mat Placard 5 Tractor (no trailer)
- 1 Bus 6 Tractor/semi-trailer
- 2 Single-unit truck: 2 axles, 6 tires 7 Tractor/doubles
- 3 Single-unit truck: 3 or more axles 8 Tractor/triples
- 4 Truck/trailer 9 Unknown heavy truck

TRAFFIC WAY

- 1 Not physically divided (2-way traffic)
- 2 Divided highway, median strip, without traffic barrier
- 3 Divided highway, median strip with traffic barrier
- 4 One-way traffic

2⁸2²

CARGO BODY TYPE

- 1 Bus 4 Flatbed 7 Auto Transporter
- 2 Van/enclosed box 5 Dump 8 Garbage/Refuse
- 3 Cargo tank 6 Concrete mixer 9 Other

ACCESS CONTROL

- 1 No control (unlimited access)
- 2 Full control (only ramp entry and exit)
- 3 Other

2⁹3²

HAZARDOUS MATERIALS INVOLVEMENT

Does vehicle have Haz Mat placard? 1 Yes 2 No

COPY FROM PLACARD:

4-digit identification number
from diamond/orange panel1 or 2-digit number from
bottom of diamond:

1 2 3 4

NAME OF HAZ
MAT CLASS:

-OR-

WAS HAZARDOUS CARGO RELEASED FROM VEHICLE?

(Do not count fuel from fuel tank)

1 Yes 2 No

SEQUENCE OF EVENTS (FOR THIS VEHICLE)

NON-COLLISION:

- 01 Ran off road
- 02 Jackknife
- 03 Overturn/Rollover
- 04 Downhill runaway
- 05 Cargo loss or shift
- 06 Explosion or fire
- 07 Separation of units

COLLISION WITH:

- 08 Pedestrian
- 09 Motor vehicle in transport
- 10 Parked motor vehicle
- 11 Train
- 12 Pedalcycle
- 13 Animal
- 14 Fixed object
- 15 Other object*
- 16 Other* (non-collision)
- 17 In-Line Skater

1st

09

11

2nd

1

12

3rd

1

13

4th

1

(* Describe in Explanation Section)

APPARENT DRIVER CONDITION

- 1 Appeared Normal 5 Fatigue
- 2 Had been drinking 6 Asleep
- 3 Illegal drug use 7 Medication
- 4 Other 8 Unknown

14

1

EXPLANATION:

OFFICER'S RANK AND NAME

T.M. F. [Signature]

BADGE NUMBER

1349

DEPARTMENT

11308

DATE OF REPORT

09/29/04

[Signature] 10/01/04 2:30 PM

EXHIBIT “B”

Page 3 of 3
29 E. Lathrop
Chester NY
IND DOT
877-357-7105
Chester NY
SEP 30 2004 AM
TELEPHONE REPORT OF ACCIDENT/INCIDENT SEP 29 2004 MA
WERNER FILE # 172822 DATE NOTIFIED 9/29/04 TIME 1324
REPORTED BY Driver DISPATCH DELAY DISPATCHER
TRACTOR # 34364 TRAILER I/A YES/NO
ADJUSTER ASSIGNED Mark Adams PHONE
201-204-2471 Ph: 1155 EMPLOYEE # 349632
DRIVER Paul Drummond SS # 128-78-5983

DRUG TEST REQUIRED YES/NO DRUG ALCOHOL

DATE OF ACCIDENT 9/29/04 TIME 0930 DAY Wed
LOCATION I-84 W.B
CITY Hopell Junction NY STATE NY

ROAD CONDITION 1. Dry 2. Wet 3. Snow-Icy 4. Construction 5. Other
ROAD CHARACTER 1. Straight Level 2. Straight on Grade 3. Curve Level
4. Curved on Grade 5. Hillcrest
ROADWAY TYPE 1. Interstate 2. Other Divided Highway 3. Two Lanes (1 each way)
4. Three or More Undivided 5. Alley 6. Parking Lot

CO-DRIVER/PASSENGER N/A ACCIDENT TYPE 34

OF VEHICLES INVOLVED 2 # OF PEOPLE INVOLVED 2 # OF INJURIES 1
INVESTIGATED BY NY State Police
OFFICER'S NAME Officer Healey CASE # M404-2072
CITATION TO 1 FOR Unsafe Lane Change
CITATION TO FOR
NUMBER OF THRU LANES (# of Lanes Traffic is flowing straight ahead)

WEATHER CONDITION 1. Dry 2. Rain 3. Snow-Sleet-Hail-Ice-Freezing Rain 4. Fog 5. Dust
ROAD SURFACE 1. Concrete 2. Asphalt 3. Dirt 4. Gravel
LIGHT CONDITION 1. Daylight 2. Dawn-Dusk 3. Dark Lighted 4. Dark Unlighted
MEDIAN TYPE 1. Divided 2. Undivided SEATBELTS YES/NO

RESERVES:
P3-700 35-4008

FUEL SPILL YES/NO GALLONS SPILLED

DAMAGE TO TRACTOR 2

DAMAGE TO TRAILER 3

#1 TOWED: YES/NO WRECKER SERVICE

WHERE

LOCATION & PHONE # OF DRIVER IF OTHER THAN TRUCK Dispatcher

DRIVER INJURY YES/NO

Driver Said Qual Massacre
After he had left accident scene
Driver indicated he was ticketed
for unsafe lane change -
Driver Suffered Injury on chest
chest had to be towed
Driver stated he put Blinker on - & Then Off
unclear if he did or did not change lanes

TRIP I.D. _____ CARGO _____ DAMAGE YES/NO _____

DIRECTION OF #1 _____ ON _____ SPEED _____
DIRECTION OF #2 _____ ON _____ SPEED _____

VEHICLE #2 OR PROPERTY DAMAGE

DRIVER'S NAME _____ AGE _____

ADDRESS _____

PHONE # _____ DRIVERS LICENSE # _____

OWNER Unknown PHONE _____

ADDRESS _____

TYPE OF VEHICLE _____ YEAR/MAKE _____

LICENSE PLATE # _____ STATE _____

DAMAGE Injured Arm

Vehicle was towed

TOWED YES/NO _____

INSURANCE COMPANY _____

PASSENGERS YES / NO, NAME(S) _____

ADDRESS _____ PHONE _____

PASSENGERS YES / NO NAME(S) _____

ADDRESS _____ PHONE _____

INJURIES

1) NAME _____ PHONE _____

TYPE _____ TRANSPORTED BY _____

TAKEN TO _____

2) NAME _____ PHONE _____

TYPE _____ TRANSPORTED BY _____

TAKEN TO _____

WITNESSES

NAME _____ PHONE _____

ADDRESS _____ PHONE _____

NAME _____ PHONE _____

ADDRESS _____ PHONE _____

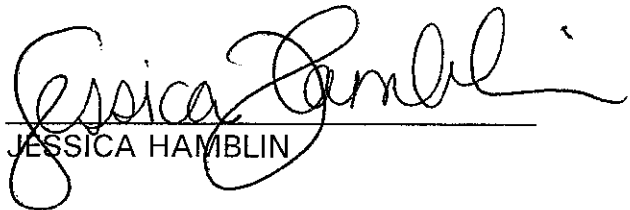
Declaration of Service

I served the annexed RESPONSE TO INITIAL DISCLOSURE by first-class mail on the following persons on February 11, 2008:

Neil H. Greenberg, Esq. (NG 1307)
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516-228-5100
Attorneys for Plaintiff

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(570) 685-7874
Attorney for Defendants
Jessica K. Boisvert and
James P. Boisvert

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 11, 2008.


JESSICA HAMBLIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
STEPHANIE BEYL,

Plaintiff,

-against-

PAUL A. DRUMMOND, WERNER
ENTERPRISES, INC., JESSICA K. BOISVERT
and JAMES P. BOISVERT,

Defendants.
-----X

Docket No.: 07 CV 5587

CIVIL ACTION

**RESPONSE TO INITIAL
DISCLOSURE**

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Defendants

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